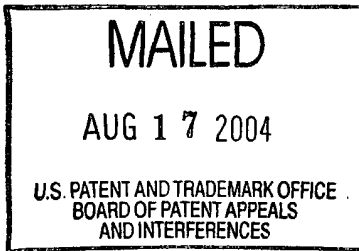


UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES



Ex parte XUJUN HUA
and
MOKHLOUF LALEG

Application No. 09/994,075

ORDER RETURNING UNDOCKETED APPEAL

This application was electronically received at the Board of Patent Appeals and Interferences on July 20, 2004. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is here-with returned to the examiner. The matters requiring attention prior to docketing are identified below.

An examination of the file reveals that an Information Disclosure Statement (IDS) was filed March 27, 2003. It is not apparent from the record whether the examiner considered the statement submitted or notified appellants of why their submission did not meet the criteria set forth in 37 CFR §§ 1.97

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and 1.98. A communication notifying appellants of the Primary Examiner's decision is required.

A further examination of the file reveals that an Examiner's Answer was mailed October 9, 2003. Pursuant to a memorandum dated April 29, 2002 by Stephen G. Kunin, Deputy Commissioner for Patent Examination Policy:

Effective immediately, no appeal should be forwarded to the Board of Patent Appeals and Interferences for decision where: . . . (2) a rejection is supported in whole or part by a prior art document not in the English language, unless accompanied by a translation of the prior art document into English.

This file is not in compliance with the above because it does not contain an English translation for EP 0608687 A1, dated January 7, 1994, which was relied upon by the examiner in his rejection of the claims.

Finally, page 1 of the Examiner's Answer mailed October 9, 2003 states that "claim 11 is allowed" ("Status of claims"). However, page 3 of the Answer states that "[c]laims 1-7, 10, 11 and 20-25 are rejected under 35 U.S.C. 103(a)" ("Grounds of rejection"). Clarification regarding the status of claim 11 is required.

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Accordingly, it is

ORDERED that the application is electronically returned
to the examiner:

1. for consideration of the IDS filed March 27, 2003;
2. for providing a certified English language
translation for EP 0608687 A1, dated January 7, 1994;
3. for clarification regarding the status of claim 11;
4. for appropriate written notification to appellants
regarding the action taken; and
5. for any further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES

By: 

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